

**A. The meeting was called to order** by Chairman Patrick Fehring at 6:30PM, on site at 3540 Hillside Road, Slinger, Washington County, Wisconsin.

**B. Official Meeting Notification.** Notice of the July 23, 2015 Town of Polk Zoning Board of Appeals was posted on the Town website and at the Cedar Lake Hills, Roskopf RV Center, and Polk Town Hall bulletin boards. Notice was copied to Hartford Times Press, Milwaukee Journal, West Bend News, WBKV, WTKM. Parties of Interest were notified.

**C. Roll Call.** Members present: Chairman Patrick Fehring, Rodney Bartlow, Mary Franz, Marilyn Mayer, Karen Reiter, alternate Robert Anderson, Zoning Secretary Tracy Groth. Building Inspector John Frey arrived after roll call.

**D. Approval of Agenda:** Karen Reiter moved to approve the agenda. Mary Franz seconded the motion. All voted in favor and the motion carried.

**E. Approval of the Minutes – June 4, 2015.** A minor grammar error was noted. Mary Franz moved to accept the Minutes as corrected. Karen Reiter seconded the motion. All voted in favor and the motion carried.

**I. Public Hearing: Steven T. Grudzinski, 3540 Hillside Road.** Zoning Secretary Groth read the Request for Variance. Said appeal is to consider a variance to Section 3.05(3) of the Zoning Ordinance, Title X of the Municipal Code of the Town of Polk to allow a variance of thirty four feet and eleven inches (34' 11") to the minimum front yard setback of sixty feet (60') from the right of way on an R-1 Single Family Residential Lot to construct a detached garage. Property is described as: Tax Key T9-0705-00B. CSM 3860 Lot 1, Part of the SW NW+NW SW Section 22, Town 10 North, Range 19 East Town of Polk, Washington County, Wisconsin.

Chairman Fehring invited the applicant to present to the Zoning Board of Appeals (ZBA). Steven Grudzinski commented that he needed a larger garage space. The building site he has staked seems to be the most logical place to build a detached garage. He would be able to utilize the existing driveway; the proposed location would require the least amount of excavation; and the location would be the most cost effective place to build. The applicant investigated adding an attached structure, but that option is much more expensive because a third of his newer roof would have to be removed to restructure the roof line. He spoke with his adjoining neighbors and they have no issue with the variance (neighbors did not attend the hearing). He is located near a manufacturing facility, another business at the north side of his lot, and the freeway at the south side of his lot.

The Chairman invited the ZBA to ask questions of the applicant. Mary Franz noted that with the addition of a detached garage, he would be over the total square footage allowed for accessory structures for his size lot. Grudzinski stated he would remove the existing tool shed. Karen Reiter asked about moving the garage further to the rear of the lot. Grudzinski stated that he would prefer to avoid removing the mature trees in the area. It was also noted that the accessory building could not be built on the opposite side of the house due to the location of the well. Chairman Fehring noted that in order to grant a

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variance, the ZBA would need to find that there is something exceptional about the lot that doesn't happen with other lots in the district. And that the applicant would require some special permission that would not apply to everyone. Examples would be the presence of wetlands or other unusual topography that would limit a building area. The ZBA cannot consider that the options presented are more economical. If the applicant can move the building at an angle and push it back from the street yard lot line, creating less of a non-conformity, that is probably what the ZBA would ask the applicant to do. There was discussion as to whether or not the building could be pushed more toward the side yard, therefore limiting the street yard variance. The Zoning Secretary noted that the application was only for a street yard variance. A recommendation involving a side yard variance would have to be considered as a separate variance application at another time. Rodney Bartlow commented that moving the building straight back should not create a side yard issue, and moving the building at angle to the side yard would create even less of an issue. The Building Inspector, John Frey arrived and agreed with the direction the ZBA was going with their thinking on the repositioning of the accessory building. Several measurements were taken in an attempt to find an acceptable front yard setback variance which would provide the required minimum fire protection of 10 feet eave to eave from the house; maintain the required side yard setback; save the mature trees; and provide an aesthetically pleasing alignment with the front of the home.

In talking about the exterior of the proposed structure, Grudzinski noted that he would build a pole structure with siding and brick veneer to match the house. The Building Inspector suggested pouring a floating slab and stick construction so the brick veneer could more easily be placed on the building.

There being no further questions or comments, Chairman Fehring closed the Public Comments. The Zoning Board of Appeals went to their findings.

**II. Consideration of Variance.** Chairman Fehring explained the criteria by which the Zoning Board of Appeals must make their determination.

#### Preservation of Intent:

*The Board found that the request to build the accessory structure is consistent with the purpose and intent of the Zoning Ordinance.*

#### Exceptional Circumstances:

*The ZBA recommends moving the building back and possibly placing the structure at an angle because the applicant does have some special circumstances. "There's not a lot of other room to build a building but the request for variance can be less nonconforming."*

#### Economic Hardship and Self-Imposed Hardship Not Grounds for Variance:

*Although the applicant wanted the building moved more toward the street yard to lessen the cost of construction, the ZBA cannot consider the cost of the construction a hardship. However, with moving the*

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*building back at an angle toward the side yard, the hardship is minimized. The Board finds the hardship is with the shape of the lot.*

Preservation of Property Rights:

*The property owner has the right to build an accessory building in the zoning district and requires a variance to preserve that property right. There is a limited area on the lot where a garage could be built.*

Mary Franz noted that the applicant had an attached garage approved [by the Town of Polk]. Grudzinski stated that he could not make due with an attached garage. With an attached garage, the roofline would not allow a garage door tall enough to accommodate their vehicles.

Absence of Detriment:

*The Board found no detriment to adjacent properties nor would the variance be contrary to the purpose and intent of the Zoning Ordinance.*

Chairman Fehring addressed the applicant with the recommendation to change the variance request by twenty feet (20') and the applicant may angle the building any way he chooses as long as he maintains the side yard setback of thirty (30') feet and the fire safety distance from the house. The variance request would change from thirty four feet and eleven inches (34'11") to fourteen feet and eleven inches (14' 11").

Karen Reiter motioned to approve a variance of fourteen feet and eleven inches (14' 11") to the street yard setback of sixty feet in the R-1 Residential District and that the building must not be built into the minimum side yard setback of thirty feet. Mary Franz seconded the motion. All voted in favor and the motion carried.

**III. Adjourn.** Marilyn Mayer moved to adjourn the meeting. Rodney Bartlow seconded the motion. All voted in favor and the motion carried. The meeting adjourned at 6:56PM.

Respectfully submitted,

Tracy Groth  
Zoning Secretary